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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,892	04/26/2006	Naotaka Tsunoda	279196US6PCT	1764
22850 7590 10/08/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER ROBINSON, RYAN C				
ART UNIT 2614		PAPER NUMBER		
NOTIFICATION DATE 10/08/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

# Office Action Summary

**Application No.**

10/560,892

**Applicant(s)**

TSUNODA, NAOTAKA

**Examiner**

Ryan Robinson

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6-8, 12, 13, 18 and 20 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 8, 9 and 14-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claim 11 is objected to because of the following informalities: The limitation "a driver unit" is recited in claim 11, however the driver unit has already been recited in parent claim 1. Examiner suggests changing "a driver unit" to "*the* driver unit". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1, 3, 6-8 12-13, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Skulley, U.S. Patent No. 6,856,690, filed on 1/9/2002, (hereby Skulley).**

4. As to claim 1, Skulley discloses a headphone apparatus (Fig. 4), comprising: a baffle portion (224) forming outer edges of the headphone apparatus and surrounding a space except a front opening portion of a driver unit

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(216), the baffle portion (214) being formed of an air-permeable porous material (The material is open celled foam; Col. 4, lines 23-26) such that air from outside the apparatus permeates through the material and external sound is prevented from being trapped interior to the baffle portion, degrading sound quality wherein said baffle portion (224) is approximately cone-shaped having a circular cross-section.

\*As to claim 11, Skulley remains as applied above. Skulley further discloses a back housing portion (226) to cover a back surface of a driver unit (The back housing portion covers the back surface of element 218). \*Claim 11 is out of order since

lower numbered claims are dependent upon it

5. As to claim 3, Skulley remains as applied above. Skulley further discloses an opening (204) made in a back surface of said back housing portion (226).

6. As to claim 6, Skulley remains as applied above. Skulley further discloses that the driver unit is (Fig. 1, 14) provided in a bridge portion shaped like an arch forming a bridge to a rim which forms a frame (Fig. 1, elements 32, 34).

7. As to claim 7, Skulley remains as applied above. Skulley further discloses that the cone (212) shape of said baffle portion is asymmetrical with respect to an axis of the cone.

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8. As to claim 8, Skulley remains as applied above. Skulley further discloses that a microphone device (Fig. 1, 40) is attached to the headphone apparatus.

9. As to claim 12, Skulley remains as applied above. Skulley further discloses that the driver unit is (Fig. 1, 14) provided in a bridge portion shaped like an arch forming a bridge to a rim which forms a frame (Fig. 1, elements 32, 34).

10. As to claim 13, Skulley remains as applied above. Skulley further discloses that a microphone device (Fig. 1, 40) is attached to the headphone apparatus.

11. As to claim 18, Skulley remains as applied above. Skulley further discloses that the back housing portion (226) is an outermost surface of the headphone apparatus (The back housing portion fits over the apparatus, and is the outermost surface).

12. As to claim 20, Skulley remains as applied above. Skulley further discloses that the baffle portion (224) includes a first circular end (222), a second circular end (206) having a larger diameter than the first end, and side portions (212) connecting the first end to the second end.

***Allowable Subject Matter***

13. Claims 4-5, 9, and 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: Dependent claims 4-5 and 14-15, recite the unique feature of the back housing and baffle portions, respectively, to comprise an *unwoven fabric of chemical fiber, or a cellulose based material*. The closest prior art (Skulley) does not teach or suggest such a feature, since the material is required to be resilient and elastic.

***Response to Arguments***

14. Applicant's arguments with respect to claims 1, 3-18 and 20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record

a. US Patent Number **6,856,690**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan C. Robinson whose telephone number is (571) 270-3956. The examiner can normally be reached on Monday through Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/R. R./

Examiner, Art Unit 2614

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit 2614